IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 1037 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02-07-2004 in W.V.M.P.NO.1252/2004 in W.P.M.P.No.10166/2004 in W.P.No.7801/2004 on the file of the High Court.)

Between:

J. Hari Lal, S/o. J. Malloji,aged about 56 years Senior Assistant,
The Tuberculosis Association of Andhra Pradesh, Hyderabad R/o. T.R.T-55, Vidyanagar, Hyderabad.

..... APPELLANT

AND

1 The Honorary General Secretary, The Turberculosis Association of Andhra Pradesh H.No. 3-4-758/1, Burkatapura, Hyderabad - 500 027.
2 The Principal Secretary to Govt. Medical Health and Family Welfare Department, Government of Andhra Pradesh, Secretariat, Hyderabad.

.....RESPONDENT

Counsel for the Appellant:MR.M.V.DURGA PRASAD

Counsel for the Respondent No.1: Mr. D. LINGA RAO

Counsel for the Respondent No. 2: GP FOR SERVICES-I

WRIT APPEAL NO : 1038 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02/07/2004 in WPMP No.9732/2004 in W.P.No.7460/2004 on the file of the High Court.)

Between:

1. D.Vijayalakshmi, W/o Ram Gopal, aged 47 years,
Working as Office Superintendent in the O/o Tuberculoses Association of Andhra Pradesh, Barkathpura, Hyderabad
Ch.Durgaiah, S/o Ch.Anjaneyulu,aged about 44 years,
Working as Junior Assistant in the Tuberculoses Association of Andhra Pradesh, Barkathpura, Hyderabad
3 N.Srinivasulu, S/o Rosaiah, aged about 50 years,
Working as Attender in the Tuberculosis Association of Andhra Pradesh,. Barkathpura, Hyderabad .

..... APPELLANTS

AND

1 The Honorary General Secretary, The Tuberculosis Association of Andhra Pradesh, H.No.3-4-758/1, Barkatpura, Hyderabad
2 The Principal Secretary to Government Medical Health and Family Welfare Department and Ex-Officio Vice Chairman of the Tuberculosis Association of Andhra Pradesh Secretariat, Hyderabad

.....RESPONDENTS

Counsel for the Appellants :MR.GOPALA RAO GANDRAKOTA

Counsel for the Respondent No.I: Mr. D.Linga Rao

Counsel for the Respondent No.2: GP FOR SERVICES-I.

WRIT APPEAL NO : 1039 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/06/2004 & 02-07-2004 in W.P.M.P.No.8415/2004 and W.V.M.P.No.1258/2004 in W.P.No.6493/2004 on the file of the High Court.)

Between:

D.Balchandra, S/o.D.Balakotaiah, aged about 54 years, working as Administrative Officer, The Tuberculosis Association of A.P., Hyderabad.

..... APPELLANT

AND

1 The Honorary General Secretary, The Tuberculosis Association of A.P.H.No.3-4-758/1, Barkatpura, Hyderabad.
2 The Principal Secretary to Govt., Medical & Health & Family Welfare Dept.,Secretariat,Hyderabad..

.....RESPONDENTS

Counsel for the Appellant No.:MR.GOPALA RAO GANDRAKOTA

Counsel for the Respondent No.1: MR.D.LINGA RAO

For the Respondent No.2: GP for Services I.

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THE HON'BLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HON'BLE SRI B.SESHASAYANA REDDY

WRIT APPEAL Nos.1037, 1038 and 1039 of 2004

COMMON JUDGMENT: (per GB.J.)

All these three Writ Appeals can be disposed of by a common Judgment as they arise out of the interim order passed by the learned single Judge in WVMP.No.1252 of 2004 in WPMP.No.10166 of 2004 in Writ Petition No.7801 of 2004, WVMP.NO.1350 OF 2004 IN Wpmp.NO.9732 OF 2004 in Writ Petition No.7460 of 2004 and WVMP.No.1258 of 2004 in WPMP.No.8415 of 2004 in Writ Petition No.6493 of 2004, dated 2.7.2004.

2. The termination orders passed by the respondent No.1-The Tuberculosis Association of A.P. (for short Association) were challenged before the learned single Judge in the above Writ Petitions. Initially while admitting the Writ Petitions, interim suspension of termination was passed. Thereafter the said order was modified to that of maintaining status quo. Ultimately on the vacate petitions having been filed by the Association, the learned single Judge passed the following orders:

> "For the aforesaid reasons, I do not consider it appropriate and just on considerations of *prima facie* case and balance of convenience, to grant a positive direction to the respondent-Association to continue the writ petitioners in service on the same terms as they were earlier employed. In view of the statement made at the Bar by Mr.D.Linga Rao, learned counsel for the respondent-Association, the respondents are directed to consider the case of the writ petitioners for engagement in the three posts

> of Manager-cum-Accountant, Computer Operator-cum-Clerk and Office Attender on the terms and conditions currently decided by them. The validity of the order dated 09.02.2004 terminating the services of the writ petitioners and the continuance of the writ petitioners or some of them on contractual basis on consolidated pay hereafter, if any, would all be subject to the result of the writ petition. The miscellaneous petitions seeking vacation of the interim orders are accordingly ordered".

The employees before this Court assail the said orders.

3. The learned counsel for the appellants Mr.M.V.Durga Prasad and Mr.Gopal Rao Gandrakota submits that the appellants have been working for a considerable length of time and that the resolutions were passed by the Association from time to time extending all the benefits as applicable to the Government employees, and if their services are terminated abruptly, it will cause irreparable loss to them. Therefore, the learned single Judge ought to have continued the interim suspension pending disposal of the Writ Petitions.

4. On the other hand the learned counsel Mr.D.Linga Rao, appearing for the Association, vehemently submits that in view of the strained financial resources there is no other alternative except to terminate the services of the appellants and to go for recruitment on contract basis and such a procedure cannot be said to be illegal and contrary to law. He also submits that the Supreme Court has indicated in number of decisions that the Courts shall not interfere with the termination orders passed against the employees. Therefore, the orders of the learned single Judge are quite legal and legal. He further submits that the Association is also prepared to consider the cases of the appellants on contract basis, which will have a reduced salary.

5. We have heard the learned counsel for the parties at length.

6. The services of the appellants were sought to be terminated by an order dated 1.4.2004. However, initially while admitting the Writ Petitions interim suspension was granted and thereafter status quo was directed to be maintained. Inasmuch as the employees have been continued for a considerable length of time, terminating their service by giving one month notice prima facie causes irreparable loss to them, and since the matter is yet to be adjudicated in the Writ Petitions, we find that a workable solution has to

be made out so that neither the Association nor the employees should suffer.

7. Under these circumstances, we direct that the appellants shall be continued in service till the disposal of the Writ Petitions. However, they shall be paid only 50% of the wages being drawn by them prior to the termination orders till the disposal of the Writ Petitions. Post the Writ Petitions for final hearing on 23.8.2004.

8. With the directions indicated above, these three Writ Appeals are disposed of. No costs.

(G.BIKSHAPATHY, J.)

9th July, 2004.

(B.SESHASAYANA REDDY, J.)

SSR

One Fair Copy to the Honourable Sri Justice G.Bikshapathy (for his Lordship's kind perusal)

To

1 The Honorary General Secretary, The Turberculosis Association of Andhra Pradesh H.No. 3-4-758/1, Burkatapura, Hyderabad - 500 027.
2 The Principal Secretary to Govt. Medical Health and Family Welfare Department, Government of Andhra Pradesh, Secretariat, Hyderabad.

3 Two CCs. To GP for Services I, High Court Buildings, Hyderabad (OUT)

4 Two CD copies.